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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,016	12/30/2003	John W. Hoffman	18,996	9322
23556	7590	03/24/2006	EXAMINER	
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			SCHATZ, CHRISTOPHER	
			ART UNIT	PAPER NUMBER
			1733	

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/750,016

Applicant(s)

HOFFMAN ET AL.

Examiner

Christopher T. Schatz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,13 and 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-9, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over VanGompel et al. '922 in view of Herrin '345, Ujimoto et al. 340, Coenen et al. (WO 02/13741) (newly cited), and optionally in view Milner et al. (2001/0042591) (newly cited) for the same reasons as presented in paragraph 2 of examiner's office action dated October 5, 2005.
3. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable VanGompel et al., Herrin, Ujimoto et al., Coenen et al., and Milner et al. as applied to claim 1 above, and in further view of Ruscher et al. '793 for the same reasons as presented in paragraph 3 of examiner's office action dated October 5, 2005.

### *Response to Arguments*

Applicant's arguments filed January 5, 2006 have been fully considered but they are not persuasive. Applicant states that examiner is simply looking from one reference to another, and not suggesting why one of ordinary skill in the art would collectively assemble the references to arrive at the present invention. Examiner first asserts that each of the references used are

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considered to be analogous art, and thus are properly combinable. Additionally, in the office action dated October 5, 2005, examiner provides reasons as to why it would have been obvious to one of ordinary skill in the art to combine the references. Applicant is referred to paragraph 2 of said office action. Examiner further asserts that applicant is simply making broad statements that the references are not combinable. Applicant does not attack the substance of any the references, and thus applicant's arguments are not considered persuasive.

Applicant states that the addition of the Milner reference shows that examiner is not providing any motivation to collectively assembly the references. Milner et al. is used simply to show that the formation of a line of weakness is well known when producing waist elastics. See pages 6-7 of the office action dated October 5, 2005.

Applicant states that examiner is using applicant's disclosure as a road map for arriving at applicant's claimed invention. Applicant should note that examiner never refers to applicant's disclosure in office action dated October 5, 2005. Additionally, applicant presents no substantive reasoning as to why or how examiner used applicant's disclosure to arrive at the claimed invention. Examiner presents reasoning as to why one of ordinary skill would have been motivated to combine the references in paragraph 2 of the office action dated October 5, 2005. For example, pages 4 and 5 of examiner's previous office action discusses why it would have been obvious to combine Coenen et al. with VanGompel, Herrin, and Ujimoto et al. – Coenen et al. discloses that it is known and advantageous to form a line of weakness, and the advantages of forming said line of weakness would apply to the method disclosed by the combination of VanGompel, Herrin, and Ujimoto et al.

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As to claim 8, examiner asserts that figure 2 shows a trailing edge defining a "w" shape. Examiner asserts that elastic folds form the "w" at the edge 22. It is irrelevant that the reference discloses a rectangular shape in other embodiments.

As to claim 14, examiner provides reasons as to why one of ordinary skill in the art would have been motivated to combine Ruscher et al. with VanGompel et al., Herrin, Ujimoto et al., Coenen et al., and Milner et al. Applicant is referred to paragraph 3 of examiners office action dated October 5, 2005.

### *Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Christopher T. Schatz** whose telephone number is **571-272-1456**. The examiner can normally be reached on 8:00-5:30, Monday -Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher T. Schatz



JEFF H. AFTERGUT  
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GROUP 1300